

HOGAN & HARTSON
LLP

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MICHELE C. FARQUHAR
PARTNER
DIRECT DIAL (202) 637-5663
INTERNET MF7@DC2.HHLAW.COM

EX PARTE OR LATE FILED

June 12, 1998

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (202) 637-5910

BY HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED
JUN 12 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: **Ex Parte**
PR Docket No. 92-235

Dear Ms. Salas:

This is to provide notice that Michele Farquhar of Hogan & Hartson sent the attached letter to FCC Chairman William E. Kennard, and FCC Commissioners Susan Ness, Harold Furchtgott-Roth, Michael K. Powell, Gloria Tristani, as well as the following FCC staff: Daniel Phythyon, Rosalind Allen, Josh Roland, D'Wana Terry, Herb Zeiler, Laura Smith, and Ira Keltz of the Wireless Telecommunications Bureau, as well as the wireless advisors to the FCC Chairman and Commissioners (Ari Fitzgerald, Karen Gulick, Paul Misener, David Siddall, and Peter Tenhula). The materials discuss AAA's pending Petition for Reconsideration in the above-referenced matter.

An original and one copy of this filing are being provided. Please do not hesitate to call should you have any questions regarding this filing.

Sincerely,


Michele C. Farquhar

Enclosure

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HOGAN & HARTSON L.L.P.

Ms. Magalie R. Salas

June 12, 1998

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cc: Chairman William Kennard
Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael Powell
Commissioner Gloria Tristani
Daniel Phythyon
Rosalind Allen
Josh Roland
D'Wana Terry
Herb Zeiler
Laura Smith
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The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte
PR Docket No. 92-235

Dear Chairman Kennard:

The American Automobile Association ("AAA") would like to respond to two issues raised by Federal Communications Commission ("FCC") staff and the Industrial Telecommunications Association ("ITA") in a recent *Washington Post* article 1/ (attached) concerning AAA's petition for reconsideration in the private radio refarming proceeding. 2/ First, an unnamed FCC official expressed concern that granting AAA "quasi-public safety" status would create a "slippery slope" and, second, ITA suggested that the FCC's one-day notification requirement would provide sufficient interference protection for AAA's frequencies. AAA would like to share its responses on these two issues, as outlined below.

Background: As you know, AAA is a not-for-profit organization dedicated to promoting the safety of the American driving public. AAA is also the largest membership organization in the United States. It provides emergency road services to its members and, in conjunction with state and local public safety agencies, to the general public. AAA responds to more than 30 million road service calls annually -- more than 80,000 per day. Almost one-third of these calls involve an immediate threat to life or property, and AAA must respond on a time-critical

1/ "The Regulators -- Breakdown in Communication? AAA Calls for Rescue From Airwaves' Traffic Jam," *The Washington Post*, June 5, 1998 at D1.

2/ *In the Matter of Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments of the Private Land Mobile Services*, Second Report and Order, FCC 97-61, PR Docket 92-235 (rel. March 12, 1997) ("*Second Report and Order*").

The Honorable William E. Kennard

Page 2

basis. AAA's emergency services directly reduce the burden on police and fire departments that would otherwise need to respond to these emergencies.

AAA cannot provide the level of service that is expected by its members and by state and local safety agencies without interference-free access to radio spectrum. Although AAA supports the FCC's policy goals in the private radio refarming proceeding (particularly the goal of enhanced spectrum efficiency), AAA continues to urge the FCC to grant its pending reconsideration petition to permit adequate coordination and protection of its radio communications. As described below, because AAA itself uses spectrum more efficiently and intensively than other private radio users, and because AAA uses less than one percent of the total frequencies in the Industrial/Business Pool, granting AAA's petition will not undermine the FCC's policy goals in this proceeding.

By way of background, when the FCC was deciding the number of private radio "pools" to adopt in the refarming proceeding, AAA had requested the ability to continue to coordinate its own frequencies as a member of a private radio pool that would include safety-related services. In the *Second Report and Order*, the Commission decided to create two pools -- a Public Safety Pool and an Industrial/Business Pool. Recognizing the potential for interference, the FCC granted special coordination rights to certain business entities with a public safety role -- the railroads, the utilities, and the power companies. ^{3/} Without addressing why AAA's frequencies were not granted similar treatment, however, the FCC simply included the Auto Emergency frequencies used by AAA and its local clubs in the Industrial/Business Pool.

In its Petition for Reconsideration, AAA demonstrated that the FCC's decision failed to adequately consider the substantial public safety nature of AAA's use of radio communications, placing an increased burden on the former Auto Emergency frequencies. ^{4/} Accordingly, AAA recommended that the FCC place the Auto Emergency frequencies in the Public Safety Pool or, at a minimum, give AAA the same coordination rights within the Industrial/Business Pool as the other quasi-public safety services. For a variety of reasons, AAA no longer believes that placing

^{3/} *Second Report and Order* at ¶¶ 15-21, 40-42.

^{4/} Petition for Reconsideration of the American Automobile Association at 6-9 (filed May 19, 1997). See also AAA White Paper, *The Need for "Safety" Treatment of Frequencies in the Automobile Emergency Radio Service*, Gary Ruark, Communications Specialist, AAA Emergency Road Service, Updated May 1998 ("AAA White Paper").

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Auto Emergency frequencies in the Public Safety Pool is the appropriate solution, and it withdrew that request in a letter to the Commission. 5/

A few months after AAA filed its petition, Congress recognized the valuable public service provided by AAA in the Balanced Budget Act of 1997, and classified auto emergency services as "public safety radio services" for purposes of the exemption from spectrum auctions. 6/ Unlike the other "public safety radio services" (railroads, power companies and utilities), however, AAA has no control over coordination of frequencies.

AAA Qualifies as a Quasi-Public Safety Entity: The primary concern expressed about granting AAA's requested relief has been that doing so would create a "slippery slope," perhaps enabling other private radio users to obtain similar treatment. AAA acknowledges that "slippery slope" concerns can be troubling under certain circumstances, such as when granting a particular exemption would swallow the rule, or when it is hard to distinguish among potential candidates for an exemption, or when there are no compelling public interest reasons supporting an exemption. None of these circumstances, however, are present in this case.

Instead, the FCC has already acknowledged that the two-pool approach could cause interference problems for safety-related services within the Industrial/Business Pool, and it has created an exception to the general rules for three different radio services (all of whom use their radio frequencies for commercial as well as safety-related purposes). The fact that a few entities have applied for similar treatment should not deter the FCC from reviewing each request on its own merits, nor should it diminish the substantial weight of comments filed in support of AAA's petition. AAA has already demonstrated its similarity to the three quasi-public safety entities under the FCC's own stated criteria, and it has clearly distinguished itself from any other candidates for this treatment.

Indeed, AAA unquestionably meets the factors cited by the FCC 7/ in granting special coordination rights to railroads, petroleum and power companies:

5/ Letter to FCC Wireless Telecommunications Bureau Chief Daniel Phythyon from the American Automobile Association, November 24, 1997 at 2.

6/ Balanced Budget Act of 1997 ("Budget Act") at § 3002(a)(2)(A) (exempting licenses issued "for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations").

7/ *Second Report and Order* at ¶¶ 40-42.

The Honorable William E. Kennard

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(1) AAA uses radio as a time-critical tool to respond "to emergencies that could impact hundreds or thousands of people" -- AAA responds to 80,000 emergency calls every day, or one every 4.5 seconds, and one-third of these calls involve immediate threat of safety to life or property;

(2) in emergencies (traffic incidents, bad weather conditions, natural disasters), AAA's operations "take on an almost quasi-public safety function"; and

(3) "any failure in [AAA's] ability to communicate could have severe consequences on the public welfare" -- the millions of Americans who use their automobiles every day, the 40 million AAA members, and the state and local public safety agencies that rely on AAA's services during emergencies.

Moreover, in the 1997 Balanced Budget Act, Congress expressly acknowledged AAA's public safety role and treats non-commercial road service providers in the same manner as power, utility and railroad companies for the purposes of the auction exemption. 8/ While the Budget Act is not binding on the FCC in the refarming context, two senators responsible for that legislation have urged the FCC to grant the frequencies used for emergency road services more protection in this docket. 9/ Finally, less than one percent of the Industrial/Business Pool frequencies -- 43 frequencies compared to the total 5,140 frequencies in this pool -- would be affected by granting AAA's request.

No other entity that is seeking quasi-public safety status can cite to these factors, such as Congressional acknowledgment of AAA's public safety role, or AAA's many years of dedicated service as a not-for-profit organization committed to improving highway and vehicle safety (see attached Letter from the National Transportation Safety Board to FCC Chairman Kennard, June 4, 1998, highlighting its partnerships with AAA). Thirty-five local public safety agencies have also filed comments supporting AAA's petition, citing AAA's routine assistance with life-threatening emergencies and natural disasters. 10/ Unlike other entities, AAA can

8/ Congress explained in the Conference Report that "[t]his service exemption also includes radio services used by not-for-profit organizations that offer emergency road services, such as the American Automobile Association (AAA). The Senate included this particular exemption in recognition of the valuable public safety service provided by emergency road services." H.R. Report 105-217 at 572.

9/ Letter to FCC Chairman William Kennard from U.S. Senators Conrad Burns and Byron Dorgan, February 17, 1998.

10/ See, e.g., Letter to FCC Chairman Reed Hundt from Dennis Garrett, Police Chief, City of Phoenix, Arizona, May 13, 1997 (attached). See also AAA White Paper for specific examples of partnerships with state and local public safety agencies.

The Honorable William E. Kennard

Page 5

show clear public interest benefits from granting the requested relief, with virtually no impact on the existing Industrial/Business Pool (AAA uses less than one percent of the frequencies) or the FCC's underlying policy goals.

One-Day Notification: The FCC recognized that moving to the two-pool system could result in an increase in license assignments that cause interference, and it required frequency coordinators within the Industrial/Business Pool to provide notice of each proposed frequency recommendation they make within one business day. ^{11/} This one-day notification process, however, does not and has not assisted AAA with its real or potential interference problems.

First, the notification serves as a post-coordination rather than pre-coordination notice, so that the frequency coordinator's recommendation is already in the processing pipeline as an acceptable coordination when the notice is received. A frequency coordinator who suspects an interference problem cannot block the assignment, but bears the burden of beginning a potentially lengthy negotiation process to resolve the conflict. Even during this negotiation process, the FCC's rules seem to permit applicants to begin transmitting pursuant to temporary and conditional authorization after a 10-day waiting period. The Commission's new rules do not require concurrence from incumbents operating on the same or adjacent frequencies, nor do they offer a time period during which other coordinators may object to a proposed coordination.

Second, the huge volume of frequency coordinations -- an average of 1,500 to 2,000 every month and often more than one hundred in a given day -- precludes effective monitoring of potential interference problems by AAA's frequency coordinator. In addition, the computer database used by the FCC and private radio coordinators does not allow AAA to access new information about its 43 frequencies in an efficient, straightforward manner. Even if the coordination information were available in a user-friendly fashion, many interference problems may not be apparent based on the general information contained in the daily notifications. The notification process, at least in AAA's case, offers no better protection than "seeking a needle in a haystack." Unfortunately, it has been virtually impossible for AAA to identify a potential problem until it is too late.

Because AAA responds to an emergency road service call every 4.5 seconds, or 80,000 calls per day, it uses its radio frequencies more intensively and efficiently than most other users of the Industrial/Business Pool. Therefore, AAA fears that other coordinators, who may be unfamiliar with the needs of auto emergency users, are more likely to assume more standard usage patterns and

^{11/} *Second Report and Order* at ¶¶ 47-48.

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The Honorable William E. Kennard
Page 6

make problematic assignments that cause interference on the former Auto Emergency frequencies. The alleged safeguard -- the one-day notification requirement -- does not protect against this problem, nor has it eased AAA's ability to solve existing interference problems for the reasons cited above. Thus far, AAA has learned of interference problems only when its clubs have reported specific incidents, and it has taken weeks to remedy the interference in some cases.

Therefore, AAA respectfully requests that the FCC grant its pending reconsideration petition for the reasons stated herein.

Respectfully submitted,



Michele C. Farquhar
HOGAN & HARTSON, L.L.P.
555 13th Street, N.W.
Washington, D.C. 20004
(202) 637-5600

Counsel for the American Automobile
Association

AAA Calls for Rescue From Airwaves' Traffic Jam

**keep control of a group of channels
it used exclusively for more than
40 years.**

In last year's ruling, the FCC created new broad grants of access of landmobile private mobile systems. One grant was for public systems. One grant was for public safety—government agencies and businesses alike—and the other for business and industrial users. The business industrial grant, which includes AEA, was allocated some \$1.60 frequencies and were to be assigned on a

additionally, within and the petroleum industry have some measure of control over a certain number of transportation.

Previously, chemicals had been carved out for groups such as AAA, and the groups determined



FCC Gets Emergency Call From AAA

REGULATORS, from D1

who used them. AAA had 43 radio frequencies to serve its own needs and those of other auto-related users, such as tow trucks and locksmiths. AAA makes about 30 million road-service calls annually; almost one-third of those involve an immediate threat to life or property, the auto club told the FCC.

"We do a road-service call every five seconds," said Gary Busch, AAA's frequency coordinator. "We don't have the capacity to share [frequencies] with anyone else. It's a problem when someone is on the same frequency interrupting us and us interrupting them."

Busch contends the new system, which allows other frequency "coordinators" to assign channels that AAA operated on, has created a traffic jam, slowing its response time to calls. "It's coming to the point where it will be a free-for-all," he said.

Busch said one of AAA's voice-radio channels in Boston, connecting up with 80 mobile units, ended up with a data system on it, sending packets of computer information over the airwaves. He said the data stream obliterated the voice traffic and closed the channel to AAA for two weeks while he tried to straighten out the problem.

In its petition to the FCC, the auto club asks that it be allowed to approve assignments on those 43 frequencies, and it would be willing to share them as long as it could maintain control. At the very least, the auto club would like advance notice of other parties being

assigned to those frequencies. The FCC, which approves the licenses for use of the channels after they are assigned by coordinators such as Busch, decided that the old way of doing business was inefficient and not a rational use of scarce radio spectrum.

FCC officials said bank, truckers and others also have asked for reconsideration, a President's box that they don't look forward to opening. "One of our concerns is that the slope in this issue is long and steep. Others will want it, and AAA will ask for more," said one top-ranking official.

The FCC also is aware that emergency road services such as AAA succeeded in being designated by Congress as providing public-safety services, which exempt them from participating in any government auction of spectrum that might be held. "They are trying to stretch the public-safety nation elsewhere," the official said.

Other groups that coordinate use of the private-radio airwaves believe the new system works better than the old one.

"AAA makes a good case, but there are a lot of other industries—mining, truck, forest products—that use radios for significant public benefit," said Mike Quinley, president of the Industrial Telecommunications Association. "Where do you stop?"

Quinley said the FCC provided safeguards to guard against interference problems. An electronic database lists users known who has been assigned to the system within 24 hours, and there is a waiting period before new licenses go on the air.

AAA's Busch said thousands of assignments are made each week and problems often are not caught until weeks later. "It just doesn't work," he said.

The Federal Communications Commission, which arranges about 20,000 communications annually for all sorts of industrial users, said it supported the new system because more frequencies are available to users.

"We've had no problems with it," said Louis Stansone, FCC's vice president of spectrum management.

The FCC hopes the issue will be resolved soon. In the meantime, AAA has put some fire legal talent on the problem. It hired Stinkula Rosenberg, former chief of the FCC's Wireless Telecommunications Bureau and now a partner at Hagens & Berens, to plead its case with the FCC.

Rosenberg said she wasn't aware of the AAA's problem when she was on the job at the FCC. "The FCC didn't look closely at others [such as AAA] and didn't understand the unique nature of AAA," Rosenberg said. "The slippery-slope argument shouldn't rule the day."

OFF FOR CONSUMERS: Just in case it wasn't plain the first time, the American Bar Association's section of Administrative Law and Regulatory Practice will have a session on June 16 called "Plain Language Regulation: A Clear Discussion of a Confused Topic." On Monday, the Clinton administration decreed that federal agencies should translate forms, documents, letters and, eventually, regulations into plain language.

Wall Street Hears Tobacco Bill Debated

TOBACCO, from D1

House would pass a "tidy version" of the bill more tightly focused on preventing children from smoking.

But Carlton, a former federal judge and the son of a North Carolina tobacco farmer, warned that if anything close to the McCain bill is approved by Congress, "we will see before the presidential ink is dry" on the new law. For starters, he said, the legislation violates the industry's constitutional right of free speech, primarily because of its limits on adver-

Carlton made it clear that the industry wanted no part of any legislation that did not provide the full-voluntarism competition with some protection against child suits.

Kendler was just as adamant that there should be no compromise on the question of legal liability. He said that for the first time in about a year there was unity in the public health community on the tobacco issue and that "there are 60 votes in the Senate without conceding as much to the industry." Carlton said later that he didn't know whether proposals would have the 60 votes

needed to overcome a filibuster.

Kendler said the industry had few friends left in Congress and as a result "there's a high probability that for the first time since the cigarette giant's report on smoking in 1964, the U.S. Congress this year will pass a bill without making one concession or ceding anything to the industry."

After the debate, several in the audience, who asked not to be identified, said they continue to hold tobacco stocks because the dividend remains high, despite the drop in stock prices, and return a better yield than Treasury notes.



**National Transportation
Safety Board**

June 4, 1998

Honorable William Kennard
Chairman
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

Dear Chairman Kennard:

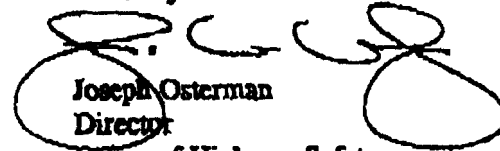
The American Automobile Association (AAA) has asked the National Transportation Safety Board to briefly review for you our associated highway safety activities.

The AAA and the Safety Board have worked together on a number of highway safety issues. More recently, we have coordinated efforts to promote the enactment of graduated license for youthful drivers within each State, primary enforcement laws for seat belt usage, occupant protection for children, and zero blood alcohol content (BAC) laws for persons under age 21. In the past we have worked together on administrative license revocation, limited visibility, driver fatigue, and grade crossing safety issues.

Our combined efforts in promoting these important safety issues have made a difference. Graduated license systems for youthful drivers have been enacted in eight states, and partially in 14 other States. Zero tolerance BAC has been incorporated in 49 States. Also, seat belt usage has increased to 68 percent nationwide and primary use laws have been enacted in 14 States and the District of Columbia.

The Safety Board believes that its relationship with the AAA has been an excellent partnership in promoting national highway safety issues, and that this strong partnership will continue to permit us to accomplish the most important of safety goals in the future.

Sincerely


Joseph Osterman
Director
Office of Highway Safety



City of Phoenix
OFFICE OF THE POLICE CHIEF

May 13, 1997

Reed Hundt, Chairman
Federal Communications Commission
2025 M. Street, NW
Washington, D.C. 20554

Dear Mr. Hundt:

I am writing to express the concern of the Phoenix Police Department regarding the inclusion of the Automotive Emergency Radio Service (A.E.R.S.) frequencies in the industrial/business pool under the Federal Communications Commission's Second Report and Order of February 20, 1997. The Phoenix Police Department believes the A.E.R.S. frequencies should be placed in the public safety pool for the following reasons:

1. In Arizona, the AAA Arizona performs an invaluable public service by assisting our public safety agencies. Our Phoenix Police Department Officers know that when they call AAA Arizona, they will get an immediate response in helping the public of Arizona. We also know that police calls take priority over all other emergency calls. Their provision of lock-out service, rescue of stranded motorists whose cars have broken down, prompt removal of disabled vehicles from high-speed roadways, and other services is indispensable to reducing the workload of the police and other public rescue services.
2. During natural disasters and other emergencies, AAA Arizona dispatches its contractors to many emergency scenes – helping to rescue stranded motorists, transporting doctors and nurses to medical facilities, and many other rescue services.

In short, AAA Arizona's inability to ensure clear access to its frequencies would have a detrimental effect on the necessary coordination of the Phoenix Police Department with AAA dispatch operations to ensure quick response to the many emergency situations we face daily.

For these reasons, the Phoenix Police Department respectfully requests that the Federal Communications Commission reconsider its placement of the A.E.R.S. frequencies in the industrial/business pool and place them instead in the public safety pool.

Sincerely,

Dennis A. Garrett
Police Chief

pc(l:ctw)hundt

any major concessions and that the
See TORACCO, D10, Col. 1

See REGULATORS, D10, Col. 1

THE REGULATORS

Breakdown in Communication?

AAA Calls for Rescue From Airwaves' Traffic Jam

By CINDY SEXTON
Washington Post Staff Writer

The American Automobile Association changes plenty of flat tires and jump-starts lots of cars with dead batteries. But it also considers itself a public service safety provider that frees children from locked cars, finds drivers lost in snowstorms, responds to medical emergencies, and helps with disaster relief and traffic-management problems.

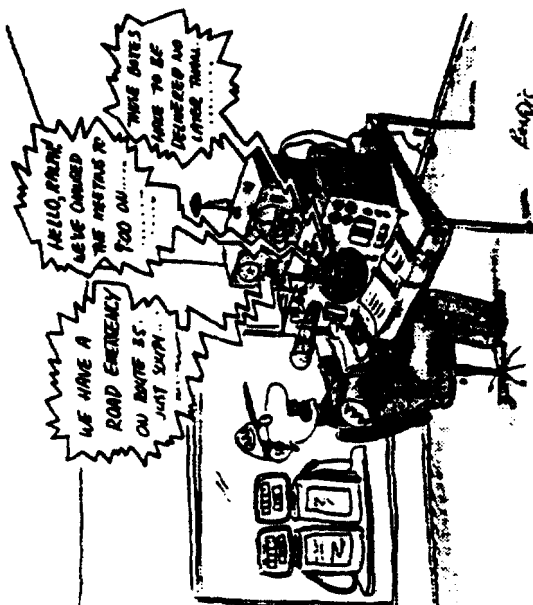
The Federal Communications Commission didn't take that emergency-rescue role into account when it changed the rules last year on how users of private two-way voice radio services must operate and share the airwaves. Now there is a debate over whether the FCC will grant the auto club special consideration and let it

keep control of a group of channels it used exclusively for more than 40 years.

In last year's ruling, the FCC created two broad pools of users of land-mobile private radio spectrum. One pool was for public safety—government agencies and ambulance services—and the other for business and industrial users. The business-industrial pool, which includes AAA, was allocated some 5,140 frequencies that were to be assigned on a first-come, first-served basis. Only railroads, utilities and the petroleum industry have some measure of control over a certain number of frequencies.

Previously, channels had been carved out for groups such as AAA, and the groups determined

See REGULATORS, D10, Col. 1



BY KATHY BROWN FOR THE WASHINGTON POST

FCC Gets Emergency Call From AAA

REGULATORS. From DI

who used them. AAA had 43 radio frequencies to serve its own needs and those of other auto-related users, such as tow trucks and locksmiths. AAA makes about 30 million road-service calls annually; almost one-third of those involve an immediate threat to life or property, the auto club told the FCC.

"We do a road-service call every five seconds," said Gary Ruark, AAA's frequency coordinator. "We don't have the capacity to share [frequencies] with anyone else. It's a problem when someone is on the same frequency interrupting us and us interrupting them."

Ruark contends the new system, which allows other frequency "coordinators" to assign channels that AAA operated on, has created a traffic jam, slowing its response time to calls. "It's coming to the point where it will be a free-for-all," he said.

Ruark said one of AAA's voice-radio channels in Boston, connecting up with 80 mobile units, ended up with a data system on it, sending packets of computer information over the airwaves. He said the data stream obliterated the voice traffic and closed the channel to AAA for two weeks while he tried to straighten out the problem.

In its petition to the FCC, the auto club asks that it be allowed to approve assignments on those 43 frequencies, and it would be willing to share them as long as it could maintain control. At the very least, the auto club would like advance notice of other parties being

assigned to those frequencies.

The FCC, which approves the licenses for use of the channels after they are assigned by coordinators such as Ruark, decided that the old way of doing business was inefficient and not a rational use of scarce radio spectrum.

FCC officials said taxis, truckers and others also have asked for reconsideration, a Pandora's box that they don't look forward to opening. "One of our concerns is that the slope in this issue is long and steep. Others will want it, and AAA will ask for more," said one top-ranking official.

The FCC also is aware that emergency road services such as AAA succeeded in being designated by Congress as providing public-safety services, which exempts them from participating in any government auction of spectrum that might be held. "They are trying to stretch the public-safety patina elsewhere," the official said.

Other groups that coordinate use of the private-radio airwaves believe the new system works better than the old one.

"AAA makes a good case, but there are a lot of other industries—mining, taxis, forest products—that use radios for significant public benefit," said Mark Crosby, president of the Industrial Telecommunications Association. "Where do you stop?"

Crosby said the FCC provided safeguards to guard against interference problems. An electronic database lets users know who has been assigned to the system within 24 hours, and there is a waiting period before new licensees go on the air.

AAA's Ruark said thousands of assignments are made each week and problems often are not caught until weeks later. "It just doesn't work," he said.

The Personal Communications Industry, which arranges about 20,000 coordinations annually for all sorts of industrial users, said it supported the new system because more frequencies are available to users.

"We've had no problems with it," said Lori Shearer, PCIA's vice president of spectrum management.

The FCC hopes the issue will be resolved soon. In the meantime, AAA has put some fine legal talent on the problem: It hired Michele Farquhar, former chief of the FCC Wireless Telecommunications Bureau and now a partner at Hogan & Hartson, to plead its case with the FCC.

Farquhar said she wasn't aware of the AAA's problem when she was on the job at the FCC. "The FCC didn't look closely at others [such as AAA] and didn't understand the unique nature of AAA," Farquhar said. "The slippery-slope argument shouldn't rule the day."

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Keasler was just as adamant that there should be no compromise on the question of legal liability. He said that for the first time in about a year there was unity in the public health community on the tobacco issue and that "there are 60 votes in the Senate without conceding an inch to the industry." Carlton said later that he didn't know whether proponents would have the 60 votes

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Safety Board**

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Chairman
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1919 M Street NW
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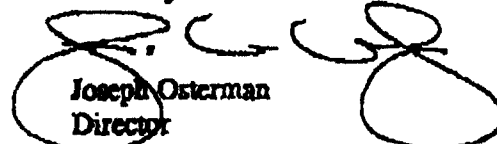
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Sincerely


Joseph Osterman
Director
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City of Phoenix
OFFICE OF THE POLICE CHIEF

May 13, 1997

Reed Hundt, Chairman
Federal Communications Commission
2025 M. Street, NW
Washington, D.C. 20554

Dear Mr. Hundt:

I am writing to express the concern of the Phoenix Police Department regarding the inclusion of the Automotive Emergency Radio Service (A.E.R.S.) frequencies in the industrial/business pool under the Federal Communications Commission's Second Report and Order of February 20, 1997. The Phoenix Police Department believes the A.E.R.S. frequencies should be placed in the public safety pool for the following reasons:

1. In Arizona, the AAA Arizona performs an invaluable public service by assisting our public safety agencies. Our Phoenix Police Department Officers know that when they call AAA Arizona, they will get an immediate response in helping the public of Arizona. We also know that police calls take priority over all other emergency calls. Their provision of lock-out service, rescue of stranded motorists whose cars have broken down, prompt removal of disabled vehicles from high-speed roadways, and other services is indispensable to reducing the workload of the police and other public rescue services.
2. During natural disasters and other emergencies, AAA Arizona dispatches its contractors to many emergency scenes -- helping to rescue stranded motorists, transporting doctors and nurses to medical facilities, and many other rescue services.

In short, AAA Arizona's inability to ensure clear access to its frequencies would have a detrimental effect on the necessary coordination of the Phoenix Police Department with AAA dispatch operations to ensure quick response to the many emergency situations we face daily.

For these reasons, the Phoenix Police Department respectfully requests that the Federal Communications Commission reconsider its placement of the A.E.R.S. frequencies in the industrial/business pool and place them instead in the public safety pool.

Sincerely,

Dennis A. Garrett
Police Chief

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